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SO ORDERED:



HON. VERNON S. BRODERICK
UNITED STATES DISTRICT JUDGE

Via ECF

The Honorable Vernon S. Broderick, U.S.D.J.
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

The deadline for Plaintiff to amend the complaint or otherwise respond to Defendant's motion to dismiss is extended to February 23, 2024. Plaintiff's motion to compel discovery is denied.

Re: *Murthada v. Highgate Hotels, L.P. et. al.* Dated: January 26, 2024
Case No.: 1:23-cv-08615

Dear Judge Broderick:

We are counsel to Plaintiff in the above-referenced matter. We write in response to Defendant HIGHGATE HOTELS, L.P.'s ("Defendant HIGHGATE") Motion to Dismiss dated January 8, 2024, [ECF 18-19]. Plaintiff seeks (i) an extension of time to amend the Complaint pursuant to Fed. R. Civ. P. 15(a)(1)(B), which permits Plaintiff to amend the Complaint as of right within 21 days of receipt of Defendant's responsive pleading, and (ii) to compel limited discovery as to the employee/employer relationship prior to amending the complaint.

Defendant HIGHGATE's Motion to Dismiss is premised on the fact that Plaintiff, who indisputably worked at the Royalton Hotel, the business owned, managed, and operated by Defendant HIGHGATE, did not work for Defendant HIGHGATE, but instead worked for Defendant HIGHGATE's "food and beverage vendors, including TG 29 Hospitality LLC." ECF 19 (Defendants' Mem. of Law) at p.2.

Plaintiff intends to amend the complaint to plead additional facts showing that Defendant HIGHGATE is one of Plaintiff's employers. As part of the proofs and pleadings to demonstrate this employment status, Plaintiff attaches **Exhibit A**. This exhibit contains emails to/from Plaintiff to managers holding themselves out to be Highgate Royalton employees and using Highgate Royalton email addresses. Moreover, Plaintiff was originally employed prior to COVID when food and beverage vendor TG 29 Hospitality LLC was supposedly managing Plaintiff. After COVID in 2022, Plaintiff was contacted to work at Defendant HIGHGATE's hotel by a different food and beverage vendor, 420 Park FB LLC, who should have had no access to Plaintiff's identity. Only Defendant HIGHGATE could have shared this employee information with the incoming food and beverage vendors, which demonstrate they had access to and maintained Plaintiff's records.

To avoid unnecessary litigation and to ensure that all parties are properly named in the Complaint, Plaintiff proposes compelling the following limited discovery as to the employee/employer relationship in this case. First, Plaintiff seeks identification through sworn testimony, deposition or affidavit, of the employer of the following individuals who managed Plaintiff through a Highgate Royalton Hotel email address: (i) Jeime Garcia, (ii) Kimberly Parker,

(iii) James Godfrey, (iv) Sylvia Lee, (v) Rocquel Barrett, (vi) Kiarra Johnson, (vii) Ryan Williams, (viii) Tanya Jackson, and (ix) all recipients of emails to the email address royaltonfoh@royaltonpark.com. Second, Plaintiff has been seeking from Defendant HIGHGATE, but has not received, the vendor contract between Defendant HIGHGATE and their food and beverage vendors, including TG 29 Hospitality LLC and 420 Park FB LLC. Third, Plaintiff seeks sworn testimony, deposition or affidavit, that Defendant HIGHGATE maintains no employee records/information for Plaintiff and other individuals employed by food and beverage vendors.

Plaintiff requests until March 31, 2024, to complete this preliminary fact finding and to oppose or amend by April 30, 2024. Defendants do not agree to this request and have not provided the vendor agreement between Defendant HIGHGATE and its vendors, despite multiple requests.

We thank Your Honor for considering this matter.

Respectfully submitted,

C.K. Lee, Esq.

/s/ C.K. Lee

cc: all parties via ECF